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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,097	05/18/2007	Cliff Aaby	268318US28PCT	6740
29586	7590	05/20/2009		
FSP LLC				
P.O. BOX 890				
VANCOUVER, WA 98666				
EXAMINER				
CHOKSHI, PINKAL R				
ART UNIT		PAPER NUMBER		
2425				
NOTIFICATION DATE		DELIVERY MODE		
05/20/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/579,097

**Applicant(s)**

AABY ET AL.

**Examiner**

PINKAL CHOKSHI

**Art Unit**

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 2/26/2009
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of **Group II – Claims 6-10** in the reply filed on 2/17/2009 is acknowledged. The traversal is on the ground(s) that Group I and Groups II-V are related as a combination and subcombination. This is not found persuasive because restriction was made based on the Unity of Invention, where groups of claims failed to form a single general inventive concept. The restriction was not made based on the regular restriction practices and therefore the reply to restriction is improper.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 6, 7, and 10** are rejected under 35 U.S.C. 102(e) as being anticipated by US PG Pub 2006/0271973 to Jerding et al (hereafter referenced as Jerding).

Regarding **claim 6**, "a content on demand system" reads on the video on demand system (title and ¶0002) disclosed by Jerding and represented in Fig. 2.

As to "system comprising: a content on demand server system comprising logic to compose set top box configuration information into an audio and/or video stream format, and logic to communicate the configuration information to a plurality of service nodes" Jerding discloses (§0036) that the DNCS insert broadcast file system (BFS) data into an MPEG-2 transport stream. Jerding further discloses (§0039) that the VOD content server and manager delivers MPEG-2 content to service group modulators as represented in Fig. 2.

As to "a plurality of service nodes each comprising logic to compose a service group identifier into the audio and/or video stream format, and logic to communicate the configuration information and the service group identifier to a plurality of set top boxes" Jerding discloses (§0039) that the MPEG-2 content is received at the service group of QAM modulators which comprises service group number. Jerding further discloses that DNCS uses the service group number to determine which modulator has access to a particular digital home communication terminal (DHCT), where service group inserts other data and information into the stream and transmits it to DHCT.

Regarding **claim 7**, "the content on demand system wherein the set top box configuration information further comprises: general configuration information, and configuration information for one or more groups of set top boxes" Jerding discloses (§0050) that the server provides configuration and service data, such as the catalog of titles available for rental by the user, to

DHCT as represented in Fig. 3. Jerding further discloses (§0053) that the configuration information is transmitted to a group of DHCTs as represented in Fig. 4B.

Regarding **claim 10**, "the content on demand system further comprising: logic to receive from a set top box a request for an audio and/or video stream, the request comprising the service group identifier communicated to the set top box and an identifier of a title of the audio and/or video stream, and to provide the audio and/or video stream to a service node corresponding to the service group identifier" Jerding discloses (§0056) that the DNCS receives a request, where a user of DHCT selects a title to rent/purchase. Jerding further discloses (§0061) that the receiver uses association tags to determine the stream, where the resource descriptor identifies the QAM modulator in service group that is transmitting a service. Jerding further discloses (§0039) that the MPEG-2 stream transmitted to service group which identifies a particular DHCT.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding in view of US PG Pub 2007/0130583 to Thiagarajan et al (hereafter referenced as Thiagarajan).

Regarding **claim 8**, “the content on demand system wherein the logic to compose set top box configuration information into an audio and/or video stream format further comprises: logic to compose set top box configuration information expressed in extensible markup language into the audio and/or video stream format” Jerding discloses (§0039) that the modulators insert information into the stream. However, Jerding does not explicitly teach that configuration information is in extensible markup language. Thiagarajan discloses (§0071 and §0075) that the content structure and other information are implemented as XML file and added with media content. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Jerding’s system by using XML language for information added to the stream as taught by Thiagarajan in order to provide a basic syntax which can be used to share information between different kinds of devices.

Regarding **claim 9**, “the content on demand system wherein the set top box configuration information further comprises: general configuration information, and configuration information for one or more groups of set top boxes” Jerding discloses (§0050) that the server provides configuration and service data, such as the catalog of titles available for rental by the user, to

DHCT as represented in Fig. 3. Jerding further discloses (§0053) that the configuration information is transmitted to a group of DHCTs as represented in Fig. 4B.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent 6,513,069 to Abato discloses video programming system for providing a distributed community network.
- US PG Pub 2004/0117839 to Watson discloses a system for the delivery and presentation of media assets over network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425